

before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

REPLY COMMENTS IN OPPOSITION

In the matter of:

Changes to section 0 and 1 of the)
Communications Act, to create a ham radio)
private sector enforcement service)
exclusively run by the ARRL) RM 9150

Comments:

Although I have filed comments, and reply comments in this matter, two news items that just came to my attention bring yet more reasons to NOT allow this rule making.

Duplication of service.

In a news story, attached as exhibit, from the Associated Press, enforcement of radio regulations is already being provided by county sheriff departments. The attached story clearly reports how a local sheriff is already finding, locating, and seizing radio equipment used by violators of FCC rules. Thus the ARRL's petition to create yet another private sector radio police force is entirely duplicative, unnecessary and creates simply another entity without purpose or value. It is apparent from the news story that citizens need only call their local sheriff, and have the sheriff investigate, seize the radio equipment and prosecute the owners. This is even more action than contemplated by the ARRL in their petition for rule making to have the ARRL Amateur Auxiliary (AA) perform these functions.

Clearly this also saves the Commission any cost of enforcement, as there is not even a mention of the case being brought before an FCC ALJ for investigation and prosecution. While the sheriff here is acting to enforce one Part of FCC rules, there is no limitation in their eyes in enforcement of any FCC rule or regulation in any service including ham radio. Thus the ARRL's petition should be denied as it duplicates services already provided by other law enforcement agencies and therefore unnecessary, superfluous, and a waste of public and private resources.

Dangers of Private Law Enforcement

In an NBC Dateline story broadcast Tuesday, Sept 23, 1997, the egregious nature of improperly trained or untrained private law enforcement personnel is graphically shown as inmates in a Texas privately owned prison are brutally set upon by the guards. While it is an extreme example of private vendetta, bias, and violation of Rights, and not expected to be an outcome of the ARRL's instant petition, it clearly shows that without the checks and balances inherent in a Government enforcement body, namely a disinterested third party with no monetary interest or political interest in the outcome of events, to adjudicate any issue brought before it, it clearly

shows there are no safeguards against abuse in the ARRL's system. On a ham radio scale, it would be easy for the anointed few to utilize the system requested, with little effort and virtually no chance for rebuke or corrective action to bend the system to meet their own personal desires to be the ruling class at the extinguishment of those who would oppose them, despite the ARRL's statements that those who bring false charges would themselves be punished, without indicating how and under what legal mechanism this would occur and what the consequences (punishment) might be.

Conflicts within ARRL and ham radio

To illustrate the built in overreach and prejudice at the ARRL, and why the ARRL cannot be trusted with such superior private sector license, is a telling scene at the ARRL's foundation meeting in St. Louis, that began the Single Point of Contact/National Frequency Coordination Council, that evolved into an ARRL funded, ARRL incorporated and ARRL sponsored activity. Nothing was more chilling than seeing frequency coordinators and state repeater association members stand up, *with fists clenched, shouting, "we need teeth."* Their meaning being, *we want to crush those who disagree with us.* (video available). This RM would provide those teeth, to be abused and misused by these same hams, to the detriment of all license holders, especially those who disagree with these few individuals who are attempting to rule the VHF and UHF bands for their own narrow personal interests. *The ARRL's chosen group also had another strong desire, immunity from prosecution,* so that not only could they rule with the might of Law, but they could do so with impunity and no fear of legal recourse from those who may be wronged or simply disagree. (video available). This may in fact already exist from recently passed Federal laws. With the recent passage of the Federal Immunity laws to protect those who would perform the Government's work but not as Government employees, the ARRL rule would be unassailable except at extreme cost that no individual or group of hams could possibly afford. In short, not only would the fox be guarding the hen house, but the fox would be breeding fatter chickens to "guard" while devouring the remainder. The ARRL has already refused to comment or explain to those who are not allowed to be a part of the NFCC, but who are affected by the NFCC actions, what protections or support the ARRL will provide to the other VHF-UHF users. As a result, there have been groups formed by hams involved in other modes of operations, namely weak signal, spread spectrum, packet and ham tv, to protect and watchdog FCC and ARRL activities to prevent the extinction of these other ham activities.

The NFCC precedent, MACC (Midwest Amateur Coordinating Council, headed by Dick Isley (also president of the Illinois Repeater Council, and ARRL/NFCC founder/officer) published and promoted the extinction of ham TV by the year 2000 and passed a resolution to that effect. Only after intense pressure, did MACC modify its stance to "actively discourage" ham tv operation. Mr. Isley also publicly stated he would not be a part of the NFCC, and then promptly became the President of NFCC. Mr. Isley was hand chosen by ARRL executive staff and directors to lead the St Louis meeting in the direction the ARRL wanted it to go. Clearly the ARRL cannot be trusted in this matter to any degree, and its refusal to comment on current ham radio license holders concern to alleviate such fears is tantamount to an admittance of secret agendas of which this petition for rule making is one.

The ARRL's petition should be denied since the ARRL, as a publishing body has inherent conflict of interest and monetary interests in the outcome of their adjudication processes, has an inherent stake in the political and financial concerns by publishing books and training manuals for their private enforcement bureau, in order to meet their statement of establishing or expanding their AA program, and in the litigation and regulation outcome of such actions. The ARRL could use their sole and exclusive and perhaps unassailable position to change public policy and FCC rules through interpretations and application not in harmony with current FCC policy and practice, and in so doing, create or subjugate rights and privileges among certain groups with whom they are in favor or not in favor as ARRL chooses. Selective enforcement could easily become the order of the day to further political and personal goals and desires of ARRL officials.

Conclusion:

RM ~~1950~~^{9/50} should be dismissed without further action and with full prejudice. It is a bad idea from start to finish.



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